



## UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

## NOTICE OF ALLOWANCE AND FEE(S) DUE

25224 7590 04/24/2009

MORRISON & FOERSTER, LLP  
555 WEST FIFTH STREET  
SUITE 3500  
LOS ANGELES, CA 90013-1024

EXAMINER

ZHOU, TING

ART UNIT

PAPER NUMBER

2173

DATE MAILED: 04/24/2009

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/712,587	11/12/2003	Hideo Suzuki	393032019710	8984

TITLE OF INVENTION: METHOD AND APPARATUS FOR EDITING PERFORMANCE DATA WITH MODIFICATION OF ICONS OF MUSICAL SYMBOLS

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1510	\$300	\$0	\$1810	07/24/2009

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. **PROSECUTION ON THE MERITS IS CLOSED.** THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN **THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE** OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. **THIS STATUTORY PERIOD CANNOT BE EXTENDED.** SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.

## HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL, or its equivalent, must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

**IMPORTANT REMINDER:** Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

# **PART B - FEE(S) TRANSMITTAL**

**Complete and send this form, together with applicable fee(s), to:** **Mail** **Mail Stop ISSUE FEE**  
**Commissioner for Patents**  
**P.O. Box 1450**  
**Alexandria, Virginia 22313-1450**  
**or Fax** **(571)-273-2885**

**INSTRUCTIONS:** This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

25224 7590 04/24/2009  
**MORRISON & FOERSTER, LLP**  
**555 WEST FIFTH STREET**  
**SUITE 3500**  
**LOS ANGELES, CA 90013-1024**

## **Certificate of Mailing or Transmission**

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop [ISSUE FEE] address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/712,587 11/12/2003 Hideo Suzuki 393032019710 8984

**TITLE OF INVENTION: METHOD AND APPARATUS FOR EDITING PERFORMANCE DATA WITH MODIFICATION OF ICONS OF MUSICAL SYMBOLS**

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1510	\$300	\$0	\$1810	07/24/2009

EXAMINER	ART UNIT	CLASS-SUBCLASS
ZHOU, TING	2173	715-835000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

- ☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.  
☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. Use of a **Customer Number is required.**

2. For printing on the patent front page, list

- (1) the names of up to 3 registered patent attorneys or agents OR, alternatively, 1 \_\_\_\_\_  
 (2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed. 2 \_\_\_\_\_  
 3 \_\_\_\_\_

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY AND STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are submitted:

- ☐ Issue Fee  
☐ Publication Fee (No small entity discount permitted)  
☐ Advance Order - # of Copies \_\_\_\_\_

4b. Payment of Fee(s): (Please first reapply any previously paid issue fee shown above)

- ☐ A check is enclosed.  
☐ Payment by credit card. Form PTO-2038 is attached.  
☐ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number \_\_\_\_\_ (enclose an extra copy of this form).

5. **Change in Entity Status** (from status indicated above)

- ☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27. ☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature \_\_\_\_\_ Date \_\_\_\_\_  
 Typed or printed name \_\_\_\_\_ Registration No. \_\_\_\_\_

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. **DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.**

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/712,587	11/12/2003	Hideo Suzuki	393032019710	8984
25224	7590	04/24/2009	EXAMINER	
MORRISON & FOERSTER, LLP 555 WEST FIFTH STREET SUITE 3500 LOS ANGELES, CA 90013-1024			ZHOU, TING	
			ART UNIT	PAPER NUMBER
			2173	
DATE MAILED: 04/24/2009				

## Determination of Patent Term Adjustment under 35 U.S.C. 154 (b) (application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 668 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 668 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

# Notice of Allowability

Application No.

10/712,587

Examiner

TING ZHOU

Applicant(s)

SUZUKI ET AL.

Art Unit

2173

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 1/20/09.
2. ☒ The allowed claim(s) is/are 2,3,15,21 and 26-34.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date 8/27/08
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_.

#### **DETAILED ACTION**

1. The amendment filed on 20 January 2009 have been received and entered. Claims 2-3, 15, 21 and 26-34 as amended are pending in the application.

#### **EXAMINER'S AMENDMENT**

2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with David T. Yang (Reg. No. 44,415) on 4/21/2009.

3. The application is amended as follows:

- a. Claim 21 is amended as follows:

Claim 21. A machine-readable storage media storing data and programs that cause a computer system containing a display to performing a performance data editing method comprising the steps of:

controlling the computer system to display a plurality of layers on a screen of the display, wherein each of said plurality of layers is assigned to a different type of articulation to be added to a musical tone to be generated based on the performance data, said different type of

articulation causing the musical tone to be generated in accordance with a specific performance technique;

in response to a user instruction, attaching an execution icon at a prescribed position onto one of said plurality of layers that is displayed on the screen of the display, wherein said attached execution icon represents execution-related data for adding, to the musical tone to be generated, a predetermined type of articulation to which said one of said plurality of layers is assigned;

controlling the computer system to display a small-scale display option for each individual layer of the plurality of layers;

in response to user selection of a small-scale display option among a plurality of display options displayed, providing an instruction to control the individual layer to be subjected to small-scale display; and

controlling the computer system to perform the small-scale display for the individual layer in response to the instruction, said small-scale display including a small-scale graphical representation of the attached execution icon on the individual layer,

wherein said step of attaching an execution icon is performed only if said one of said plurality of layers is not subjected to small-scale display at the time of the user instruction.

***Allowable Subject Matter***

4. Claims 2-3, 15, 21 and 26-34 are allowed.

5. The following is an examiner's statement of reasons for allowance: The present invention teaches an editor for editing performance data using execution icons. Each of the independent claims identifies the distinct feature of performing a small-scale display for an individual layer in response to user selection of a small-scale display option, the small-scale display including a small-scale graphical representation of the attached execution icon on the individual layer, wherein the step of attaching an execution icon is performed only if the one of the plurality of layers is not subjected to small-scale display at the time of the user instruction. The closest prior art, Emagic Notator Logic Sequencing Software (Macintosh)" by Jim Aikin (hereinafter "Aikin"), Blumenau U.S. Patent 5,664,216 and Simborg et al. U.S. Patent 5,950,168 (hereinafter "Simborg") teach a graphical editor for editing performance data using execution icons. In the case of the Aikin reference, Aikin teaches controlling the computer system to display a plurality of layers on a screen of the display (sequencing software with several layers) (Aikin: pages 12—124, 127-128 and Figures 2-3), wherein each of the plurality of layers is assigned to a different type of articulation to be added to a musical tone to be generated based on the performance data (adding different icons representing different articulation to the layers) (Aikin: pages 12—124, 127-128 and Figures 2-3; in response to a user instruction, attaching an execution icon at a prescribed position onto one of the plurality of players that is displayed on the screen of the display (icons corresponding to the musical performance can be attached to each layer) (Aikin: pages 12—124, 127-128 and Figures 2-3), wherein the attached execution icon represents execution-related data for adding, to the musical tone to be generated, a predetermined type of articulation to which the one of the plurality of layers is assigned (Aikin: pages 12—124, 127-128 and Figures 2-3). In these cited sections, Aikin describes how a user selects execution icons

corresponding to execution-related data representing articulation used in music performance, i.e. pipe organ icon representing how the pipe organ, a musical instrument, performs from a palette of icons and places them on a layer, causing the corresponding data to be incorporated into the performance data being edited. For example, a user may select a pipes organ icon, which corresponds to how the performance is to be executed, and is therefore an execution icon. The musical notes are also execution icons pertaining to how music is to be played/executed. In the case of the Blumenau reference, Blumenau teaches adding a different type of articulation to a musical tone to be generated, the different type of articulation causes the musical tone to be generated in accordance with a specific performance technique (icons are placed on the screen to transform a musical tone, i.e. audio data; for example, icons can represent filter icons that affect audio performance techniques/process, i.e. the technique of bending audio data) (Blumenau: column 2, lines 22-57, column 5, lines 18-20 and column 8, lines 8-35). In the case of the Simborg reference, Simborg teaches controlling the computer system to display a small-scale display option for each individual layer of the plurality of layers (displaying an arrow, such as the arrow 24 shown in Figure 1) (Simborg: column 3, lines 14-30); in response to user selection of a small-scale display option for an individual layer, providing an instruction to control the individual layer to be subjected to small-scale display (users can select the small-scale option for the “Vital Signs” layer, causing the layer to be displayed in small-scale, i.e. in zipped form) (Simborg: column 3, lines 43-50); and controlling the computer system to perform the small-scale display for the individual layer in response to the instruction (users can select the small-scale option for the “Vital Signs” layer, causing the layer to be displayed in small-scale, i.e. in zipped form) (Simborg: column 3, lines 14-50). However, the small-scale display taught by



Simobrg collapses the entire layer, and does not allow any graphical representations of icons attached to the layer to be displayed. Therefore, the prior art fail to teach displaying icons attached to the individual layer in a symbolic manner even in small-scale display mode and that no editing functions may be performed on an individual layer while the layer is displayed via a small-scale display (also see applicant's remarks filed on 1/20/2009). Thus, the prior art fail to anticipate or render the above limitations obvious.

6. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TING ZHOU whose telephone number is (571)272-4058. The examiner can normally be reached on Monday - Friday 8:00am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kieu Vu can be reached on (571) 272-4057. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ting Zhou/  
Primary Examiner, Art Unit 2173